

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Clifford Selby and Marie Selby,) CIVIL ACTION NO. _____
)
Plaintiffs,)
)
vs.) **NOTICE OF REMOVAL AND**
) **MEMORANDUM IN SUPPORT**
Exterior Forensics, Inc., Mark Molony,)
and State Farm Fire & Casualty Company,)
)
Defendants.)

PLEASE TAKE NOTICE that the Defendant, State Farm Fire and Casualty Company (“State Farm”) pursuant to 28 U.S.C. § 1441, et seq., gives notice of the removal of this action from the Circuit Court of Charleston County, South Carolina to the United States District Court for the District of South Carolina, Charleston Division. This removal is based upon diversity of citizenship and is grounded upon the following:

1. This case, captioned *Clifford Selby and Marie Selby, Plaintiffs, versus Exterior Forensics, Inc., Mark Molony, and State Farm Fire & Casualty Company., Defendants*, was filed on or about November 16, 2006, in the Court of Common Pleas of Charleston County, South Carolina, bearing Civil Action No. 06-CP-10-4528 on the docket of that Court, a copy of the Summons and Complaint being attached hereto and made a part hereof as Exhibit “A.”

2. The Defendant State Farm was served through the S.C. Department of Insurance with a copy of the Summons and Complaint on or about November 29, 2006. This Notice of Removal, pursuant to 28 U.S.C. § 1446, falls within thirty (30) days of the receipt by this Defendant of the initial pleadings setting forth a claim for relief upon which such action or proceeding is based.

3. The Defendant Molony is a citizen and resident of the State of Florida. The Defendant State Farm, is a corporation organized under and existing by virtue of the laws of a State other than the State of South Carolina. The Defendant Exterior Forensics, Inc., at one time owned by the Defendant Molony, went into forfeiture 12/30/04 according to the records of the S.C. Secretary of State, attached hereto as Exhibit B, and it therefore has not existed since then. On information and belief, the Plaintiffs, as will more fully appear in Paragraph 1 of their Complaint in the Court of Common Pleas for Charleston County, are citizens and residents of a State other than the State of South Carolina. There therefore exists complete diversity of citizenship between the Plaintiff and Defendants, pursuant to 28 U.S.C. § 1332.

4. In the Plaintiffs' Complaint, the Plaintiffs allege an award of a judgment of \$1,305,000 against Molony and Exterior Forensics in an underlying suit and now want to collect all or part of it from State Farm, which wrote coverage for \$1,000,000.

5. The Defendants will pay all costs and disbursements incurred by reason of the removal proceedings should it be determined that this action was not removable to the Federal District Court or was improperly removed.

6. The amount in controversy requirement is satisfied, as mentioned above, as will more fully appear in Paragraphs 14 and 23 of the Plaintiffs' Complaint.

7. A copy of this Notice of Removal and Memorandum in Support has been filed with the Clerk of Court of Common Pleas for Charleston, South Carolina.

WHEREFORE, State Farm prays that this Court accept this Notice of Removal, now being filed with this Court, that this Court take jurisdiction of the above-entitled cause, and that all further proceedings in said cause in the Court of Common Pleas for Charleston County, South Carolina, be stayed.

BUIST MOORE SMYTHE McGEE P.A.

s/ Henry E. Grimball

Henry E. Grimball, Esq. Fed. I.D.# 2478
Five Exchange Street
P.O. Box 999
Charleston, SC 29402
(843) 722-3400
Attorney for the Defendant State Farm

December 18, 2006
Charleston, South Carolina

CERTIFICATE OF SERVICE

This will certify that on the 18th day of December, 2006, I did serve a copy of the foregoing NOTICE OF REMOVAL via electronic filing upon those ECF-registered individuals, and via first-class, U.S. Mail, postage prepaid and properly addressed, to the following individuals:

Sean K. Trundy, Esq.
Sean Kevin Trundy, LLC
P.O. Box 41343
North Charleston, SC 29423
Attorney for the Plaintiffs

BUIST MOORE SMYTHE MCGEE P.A.

s/ Henry E. Grimball
